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GAZETTE NOTICE NO. 1982

THE COMMISSIONS OF INQUIRY ACT

(Cap. 102)

APPOINTMENT OF COMMISSION OF INQUIRY

IN EXERCISE of the powers conferred by section 3 of the Commissions of Inquiry Act, I, Mwai Kibaki, President and Commander-in-Chief of the Armed Forces of the Republic of Kenya, being of the opinion that it is in the public interest to do so, appoint a commission of inquiry to inquire into all the aspects of the General Election held on 27th December, 2007, in Kenya, with particular emphasis on the Presidential Election, to be headed by Johann Kriegler (Judge) as the Chairman and—

Imani Daudi Aboud (Lady Justice),
Marangu M'Marete (Prof.),
Francis Angila Aywa,
Catherine Muyeka Mumma,
Horacio Boneo,

as commissioners.

Dated the 13th March, 2008.

MWAI KIBAKI,
President.

GAZETTE NOTICE NO. 1983

THE COMMISSIONS OF INQUIRY ACT

(Cap. 102)

Citation

A COMMISSION to inquire into all the aspects of the General Election held on 27th December, 2007, in Kenya with particular emphasis on the Presidential Election.

IN EXERCISE of the powers conferred on me by section 3 of the Commissions of Inquiry Act, I, Mwai Kibaki, President and Commander-in-Chief of the Armed Forces of the Republic of Kenya, direct the commissioners to hold an inquiry with immediate effect.

1. The terms of reference shall be to—

- (a) analyze the constitutional and legal framework to establish the basis for the conduct of the 2007 elections and to identify any weaknesses or inconsistencies in the electoral legislation;

(b) examine the organizational structure, composition, and management systems of the Electoral Commission of Kenya to assess its independence, capacity and functioning during the preparation and conduct of the 2007 elections;

(c) examine the public participation in the 2007 electoral process and the electoral environment, including the roles and conduct of the political parties, media, civil society and observers;

(d) investigate the organization and conduct of the 2007 electoral operations including: civic and voter education; training; voter registration; logistics and security; polling and counting; vote tabulation and results processing and dispute resolution;

(e) investigate the vote counting and tallying for the entire election with special attention to the presidential elections in order to assess the integrity of the results and make recommendations for improvements, adjustments or overhaul of the system;

(f) assess the functional efficiency of the Electoral Commission of Kenya and its capacity to discharge its mandate;

(g) perform any other tasks that the Commission may deem necessary in fulfilling the foregoing Terms of Reference;

(h) recommend—

(i) electoral reform including constitutional, legislative, operational and institutional aspects, as well as on accountability mechanisms for Electoral Commission of Kenya Commissioners and staff pertaining to electoral malpractices, in order to improve future electoral processes;

(ii) such other legal or administrative measures as the Commission may deem necessary;

and to report this findings and any recommendations within six months.

2. The members of the Commission shall be—

Johann Kriegler (Judge)—(Chairman),
Imani Daudi Aboud (Lady Justice)
Marangu M'Marete (Prof.),
Francis Angila Aywa,
Catherine Muyeka Mumma,
Horacio Boneo.

3. In the discharge of its mandate, the Commission shall—

- (a) receive views from members of the public and receive oral and/or written statements from any person with relevant information, and may—
- (i) use official reports of any previous investigations;
 - (ii) use any investigation report by any institution or organization;
 - (iii) carry out or cause to be carried out such studies or research in any relevant areas.
- (b) determine its own rules of procedure and develop its own work plan;
- (c) appoint a vice-chairman from among its members;
- (d) publish its rules of procedure in the *Kenya Gazette*;
- (e) summon any person or persons concerned to testify on oath and to produce any records, books, plans and documents that the commissioners may require;
- (f) hold such meetings in Nairobi or other places as it may determine;
- (g) hold meetings in public but may hold private hearings whenever it becomes necessary to instill confidence in the people appearing before it or to allay their fears of adversity or reprisal.
- (h) execute the said inquiry with all diligence and speed and make its report without undue delay.
4. The Commission shall have all the powers necessary or expedient to effectively discharge its mandate, including the power to require co-operation from public officers and relevant institutions.

5. The Commission shall produce and submit to the President and the Panel of Eminent African Personalities a final report on its findings and recommendations, which shall be made public, in English and Swahili, within 14 days of submission.

6. The Commission shall be funded by the Government of Kenya and from the Trust Fund for the National Dialogue and Reconciliation.

Dated the 13th March, 2008.

MWAI KIBAKI,
President.

GAZETTE NOTICE NO. 1984

THE PUBLIC COMPLAINTS STANDING COMMITTEE

APPOINTMENT OF EXECUTIVE DIRECTOR

IN EXERCISE of the powers conferred by paragraph 4 (a) (i) of Gazette Notice No. 5826 of 2007, the Minister for Justice and Constitutional Affairs appoints—

KENNETH NYAGA MWIGE

to be the Executive Director of the Public Complaints Standing Committee Secretariat, for a period of three (3) years, with effect from 13th March, 2008.

Gazette Notice No. 6327 of 2007, is revoked.

Dated the 13th March, 2008.

MARTHA KARUA,
Minister for Justice and Constitutional Affairs.